

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DONALD C. HUTCHINS)
Plaintiff) Civil Action: 04-30126-MAP
v.) JUDGE MICHAEL PONSOR
CARDIAC SCIENCE, INC.)
Defendants)
)

**DEFENDANT COMPLIENT CORPORATION'S
MOTION FOR DISMISSAL WITHOUT PREJUDICE**

Pursuant to the Court's Memorandum and Order of September 27, 2006, granting summary judgment to Defendant, Compliant Corp., and requesting a report on the status of Compliant's counterclaims against Plaintiff, Donald C. Hutchins, Compliant hereby gives notice that it intends to dismiss those counterclaims without prejudice. Accordingly, Compliant hereby moves this Court, pursuant to Fed. R. Civ. P. 41(a)(2) and (c), for an order dismissing its counterclaims without prejudice.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that, on October 16, 2006, I electronically filed a copy of the foregoing Motion for Dismissal Without Prejudice and that parties to the case, registered with the Court's electronic filing system, will receive electronic notice of such filing. A copy of the foregoing was also served upon the following via first-class U.S. mail on today's date:

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Pro Se

/s/ Jeffrey J. Lauderdale
One of the Attorneys for Defendant,
Compliant Corporation